

Serial No. 10/725,049

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REMARKS

The Office action dated March 12, 2007 and the cited reference have been carefully considered.

Status of the Claims

Claims 1, 3, 5, 6, and 9-15 are pending. Claims 9 and 15 are canceled. Therefore, claims 1, 3, 5, 6, and 10-14 are pending following entry of the present amendments.

Claims 1, 3, 5, 6, and 9-15 are rejected under 35 U.S.C. § 102(b) as being anticipated by Ellis et al. (U.S. Patent 4,436,730; hereinafter "Ellis"). Claims 9 and 15 are canceled. Therefore, the rejection of claims 9 and 15 is now moot. Applicant respectfully traverses the rejection of the remaining claims 1, 3, 5, 6, and 10-14 for the reasons set forth below.

Claim Rejection Under 35 U.S.C. § 102(b)

Claims 1, 3, 5, 6, and 10-14 are rejected under 35 U.S.C. § 102(b) as being anticipated by Ellis. Applicant respectfully traverses the rejection of these claims because Ellis does not disclose each and every element of each of these claims as recited.

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a *single* prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 2 U.S.P.Q.2d 1051, 1053 (Fed. Cir. 1987) (emphasis added). Moreover, the identical invention must be shown in as complete detail as is contained in the claim. *Richardson v. Suzuki Motor Co.*, 9 U.S.P.Q.2d 1913, 1920 (Fed. Cir. 1989). And each and every element of the claimed invention must be *arranged as in the claim*. *Lindemann Maschinenfabrik GmbH v. American Hoist & Derrick Co.*, 221 U.S.P.Q. 481, 485 (Fed. Cir. 1984).

Ellis discloses only "a solution consisting essentially of an ionic polymer dissolved in a water solution". Column 2, lines 38-39. The ionic polymer can be any ionic polymer. Column 2, line 42. Note that the polymer is any ionic polymer, not specifically a cationic

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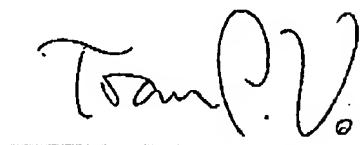
polymer, let alone a quaternized ammonium cationic polysaccharides, as recited in claims 1, 3, 5, 6, and 10-14. In a separate part, Ellis discloses an ionic polymer comprising general units that also include quaternized ammonium sugar. Column 5, lines 14-50. Ellis also disjointly discloses that buffers or viscosity modifiers may be used. Column 7, lines 59-60. As a matter of law, such disjointed disclosure of individual ingredients is inadequate to anticipate a claim reciting a specific combination of ingredients because a mere theoretical possibility that various individual parts may be picked and chosen cannot anticipate a claim. *Richardson*, 9 U.S.P.Q.2d at 1920 (The identical invention must be shown in as complete detail as is contained in the claim.) When specific solutions are disclosed, each contains: (1) a preservative that is not a quaternized ammonium polysaccharide (Ellis uses benzalkonium chloride or thimerosal); or (2) such preservative and hydroxyethylcellulose, methylcellulose, methylcellulose carboxylic acid, or polyvinyl alcohol. Examples IV-IX.

In contradistinction, each of claims 1, 3, 5, 6, and 10-14 recites a solution consisting of a buffer system, a chelating agent, and one or more quaternized ammonium cationic polysaccharide, or a solution consisting of these components and a tonicity agent, a surfactant, or a viscosity agent. Therefore, Ellis does not disclose each and every element of the claims, in specific combinations recited in the claims. In other words, Ellis does not disclose the identical invention as in the claims. Consequently, Ellis does not anticipate claims 1, 3, 5, 6, and 10-14.

In view of the above, it is submitted that the claims are patentable and in condition for allowance. Reconsideration of the rejection is requested. Allowance of the claims at an early date is solicited.

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Respectfully submitted,



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